



NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Fiscal Analysis Memorandum

CONFIDENTIAL

Requestor: Representatives Howard, Setzer, and Szoka
Analyst(s): Denise Canada and Jane Chiulli
RE: PCS to S395

SUMMARY TABLE

FISCAL IMPACT OF PCS to S395					
	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>	<u>FY 2024-25</u>
State Impact					
CCRC Tax Relief	Unknown revenue loss, potentially significant. See Fiscal Analysis section.				
Food and Nutrition Services	No fiscal impact.				
General Fund Impact					

NET STATE IMPACT

Local Impact

CCRC Tax Relief	Unknown revenue loss, potentially significant. See Fiscal Analysis section.
Food and Nutrition Services	No fiscal impact.

NET LOCAL IMPACT

FISCAL IMPACT SUMMARY

Section 1 allows the Department of Revenue to reduce sales and use tax assessments imposed on continuing care retirement communities for failure to collect and remit sales tax on taxable transactions. This forgiveness would result in lost tax revenue for the State and local governments.

Section 2 allows Department of Health and Human Services to seek a temporary time limit waiver for Able-Bodied Adults Without Dependents (ABAWD) participating in the Food and Nutrition Services (FNS) Program; this section is expected to have no fiscal impact.



FISCAL ANALYSIS

Section 1: Tax Relief for Operators of Continuing Care Retirement Communities (CCRCs)

Background

Section 1 allows the Department of Revenue to reduce by 75% a sales and use tax assessment imposed on a continuing care retirement facility for failure to collect and remit sales tax on taxable transactions, under certain conditions that are stated in the section.

Under North Carolina tax law, sales of all tangible personal property are subject to sales tax unless the items are specifically exempted from taxes. In addition, a fundamental principle in tax law is that taxable transactions should be treated the same regardless of how they are provided or by whom they are provided. CCRCs are retailers when they sell taxable items to independent living residents and have been considered as such by the Department of Revenue for many years.

However, audits conducted by the Department of Revenue indicate that at least two CCRCs have not accurately collected and remitted sales taxes on their taxable transactions -- that is, on transactions in which the CCRC is the retailer, such as when selling meals. The bill would forgive 75% of sales and use taxes owed by these and any other CCRCs who receive tax assessments by the Department of Revenue if the CCRC meets conditions outlined in the bill.

Cost Estimates

Forgiving or reducing sales tax liability will reduce both State and local tax revenue. The two assessments identified by the Department total approximately \$4.5 million. Using these two data points, the Department has estimated that granting 100% tax assessment relief for all CCRCs could cost the State approximately \$129 million, suggesting that 75% relief would cost approximately \$97 million in State dollars. While it is possible that this tax relief could total \$97 million, the Fiscal Research Division believes that we cannot confidently forecast the cost of the bill. Each taxpayer's circumstances are different, and each CCRC has a different financial picture, serving different numbers of clients and conducting differing numbers of potentially taxable transactions. It is impossible to know from two data points what the total cost could be for all 60 CCRCs. Thus, no estimate is available.

SECTION 2: Food and Nutrition Services/ Able-Bodied Adults Without Dependents

The federal Food and Nutrition Act of 2008 limits the time an ABAWD can receive Supplemental Nutrition Assistance Program (SNAP) benefits to three months in any 36-month period, unless the individual meets the ABAWD work requirement or is otherwise exempt. The Act also provides that a state may request to waive the time limit for individuals in all or part of the state if the requested area demonstrates high unemployment or a lack of sufficient jobs. The US Department of Agriculture (USDA) has suspended ABAWD time limits due to the COVID-19 pandemic, applicable from April 1, 2020 through the end of the federal public health emergency declaration.

G.S. 108A-51.1 prohibits the Department of Health and Human Services (DHHS) from seeking waivers to the federal time limit for FNS benefits for ABAWD required to fulfill work



requirements. The proposed legislation would allow DHHS to seek a temporary time limit waiver for the period following the end of the federal public health emergency declaration.

FNS benefits are 100% federally funded. Costs to administer FNS benefits at the State level are 50% federal/50% State funds, and costs to administer benefits at the county level are 50% federal/50% county funds. Analysis suggests the temporary time limit waiver would have no impact on benefit administration at the State level and would have a marginal impact at the county level that could be managed within existing staffing levels. As a result, the proposed legislation would have no fiscal impact on benefit administration costs.

TECHNICAL CONSIDERATIONS

N/A.

DATA SOURCES

North Carolina Department of Revenue; North Carolina Department of Health and Human Services

FISCAL ANALYSIS MEMORANDUM – PURPOSE AND LIMITATIONS

This document is a fiscal analysis of a bill, draft bill, amendment, committee substitute, or conference committee report that is confidential under Chapter 120 of the General Statutes. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts. This document is not an official fiscal note. If a formal fiscal note is requested, please email your request to the Fiscal Research Division at FiscalNoteRequests@ncleg.net or call (919) 733-4910.

